



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/812,151

03/29/2004

Richard LaBrash

66555-43734

2935

7590

06/14/2006

Clyde L. Smith
Thompson Coburn LLP
One US Bank Plaza
St. Louis, MO 63101-9928

EXAMINER

CHIN SHUE, ALVIN C

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/812,151

Applicant(s)

LABRASH, RICHARD

Examiner

Alvin C. Chin-Shue

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 9-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 22-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ✓ 1) ☒ Notice of References Cited (PTO-892)
- ✓ 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ✓ 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/29/04

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4,22,25 and 26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Gohlke. Gohlke shows first and second ladder sections (front and rear rails p).

Claims 22,25 and 26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Taylor. Taylor shows attachment portion A and ladder portions B,C.

Claims 1-4,22,25 and 26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Teller. Teller shows attachment portion at 16,13,6.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gohlke in view of Japanese pat. 24273 to Bizen. Gohlke shows the claimed ladder assembly with the exception of being secured to a tailgate. Bizen shows a step secured to a tailgate. It would have been obvious to one of ordinary skill in the

art at the time the invention was made to provide the ladder assembly of Gohlke to a tailgate, as taught by Bizen, to provide access therefrom.

Claims 5,6,27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teller in view of McCarty. Teller shows the claimed ladder assembly with the exception of the claimed locking mechanism. McCarty in fig.10 shows a biased locking mechanism with a release member 95. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Teller at 12 to comprise a biased locking mechanism with a release member, as taught by McCarty, to facilitate locking his ladder section to his attachment portion at selected angular relationship.

Claims 22,25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor in view of Suiter. Taylor shows the claimed ladder assembly with the exception of the pivotally and lockable connection between his attachment portion 27,29,31 and his ladder portion A. Suiter shows a ladder portion 10 pivotally and lockable to his attachment portion 16. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Taylor for his ladder portion to be pivotally and lockable attached to his attachment portion, as taught by Suiter, to enable a compact storage position of his ladder assembly.

Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor and Suiter, as applied to claim 22 above, and further in view of Griebel et al. Griebel in fig.2 at 44,42a,42b shows a biased locking mechanism with a release member. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Taylor to comprise a locking mechanism, as taught by Griebel, in lieu of the locking means at 38 as taught by Suiter, to facilitate locking of his ladder portion to his attachment portion.

Claims 1-4,7,8,23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor and Suiter, as applied to claim 22 above, and further in view of Japanese pat. 24273 to Bizen. Bizen shows a step secured to a tailgate by clamping means at 3,31. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the attachment portion at 29 of Taylor to comprise a threaded clamping means, as taught by Bizen, to facilitate releasable securement, and to provide the ladder assembly of Taylor to a tailgate, as taught by Bizen, to provide access therefrom.

Claims 5,6,27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor, Suiter and Bizen, as applied to claims 1 and 23 above, and further in view of Griebel as applied above.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor. To secure his ladder to a conventional tailgate, would have been an obvious mechanical expediency, to enable access therefrom.

Claims 1-4,7,8 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor and Suiter, as applied to claim 22 above, and further in view of Thornburg et al. Thornburg at 46,48,52,44 shows a clamping means. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the attachment portion at 29 of Taylor to comprise a threaded clamping means, as taught by Thornburg, to facilitate releasable securement. To secure his ladder to a conventional tailgate, would have been an obvious mechanical expediency, to enable access therefrom.

Claims 5,6,27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor, Suiter and Thornburg, as applied to claim 1 above, and further in view of Griebel as applied above.

Claims 9-21 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3/23/06.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 571-272-6828. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Alvin C. Chin-Shue

Alvin Chin-Shue
Primary Examiner